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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

Telephone Number:

Refer Reply To:

CC:PSI:8

PLR-131128-06

Date:

December 14, 2006

In Re:

Taxpayer =

Dear :

This responds to your request for a letter ruling dated June 13, 2006, and subsequent correspondence, concerning the applicability of § 4471 of the Internal Revenue Code to the voyages of the vessels described below.

Taxpayer anticipates operating a foreign owned and foreign flag

off the United States coast. Taxpayer also anticipates that it and the owner of this will be affiliated through common ownership. The I will have gambling and entertainment venues, shops, restaurants, theaters, and a hotel with several hundred rooms. Passengers will board the in a United States port. The will transport its passengers outside of United States territorial waters where the will remain for one to six months and passengers may gamble. After this time, the will return to the same United States port, passengers will leave the , and supplies may be loaded on the . The also may periodically go to any United States or foreign port for supplies, inspections, maintenance, repairs, drydocking, and/or emergencies.

Taxpayer also anticipates that it will own and operate at least two United States flag shuttle vessels (Shuttle Vessel(s)). These Shuttle Vessels will transport passengers to and from a United States port to the several times a day. The Shuttle

Vessels may also carry supplies to and from the . There will not be any gambling on the Shuttle Vessels. The Shuttle Vessels will not have stateroom accommodations. Passengers will have the option to complete the round trip voyage to the in one day or to stay aboard the for one or more nights and return to the United States port on another day on a Shuttle Vessel or the . Taxpayer expects that the majority of passengers will make the trip to and from the on a Shuttle Vessel.

Taxpayer will be compensated for operating the Shuttle Vessels and the by a fee charged to each passenger and/or through an agreement with the owner of the .

Section 4471(a) imposes a tax of \$3 per passenger on a covered voyage. Section 4471(b) provides that this tax shall be paid by the person providing the covered voyage. Section 4471(c) provides that this tax is imposed only once for each passenger on a covered voyage, either at the time of first embarkation or disembarkation in the United States.

Section 4472(1) provides, in part, that the term “covered voyage” means a voyage of (i) a commercial passenger vessel which extends over 1 or more nights, or (ii) a commercial vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial water of the United States, during which passengers embark or disembark the vessel in the United States. Section 4472(2) provides that the term “passenger vessel” means any vessel having berth or stateroom accommodations for more than 16 passengers.

Section 43.4472-1(b) of the Excise Tax on Transportation by Water Regulations provides, in part, that for purposes of this section, “voyage” means a journey of a vessel that includes the outward and homeward trips or passages. The voyage commences when the vessel begins to load passengers and continues during the entire ensuing period until the vessel has made one outward and one homeward passage (including intermediate passages, if made). A voyage may be a covered voyage with respect to a passenger even if the passenger does not make both an outward and homeward passage.

The voyage, as described in the submission, meets either of the two tests for qualifying as a covered voyage in § 4472(1)(A). The is a commercial passenger vessel because it will have berth or stateroom accommodations for more than 16 passengers. The will make voyages that extend over one or more nights. Therefore, a voyage of the meets the criteria for a covered voyage in § 4472(1)(A)(i). A voyage of the will also meet the definition of a covered voyage in § 4472(1)(A)(ii) because the is a commercial vessel that will transport passengers engaged in gambling beyond the territorial waters of the United States. Some of the passengers will

embark and/or disembark the _____ in the United States. A cruise of the _____ will not lose its status as a covered voyage because a passenger or passengers do not make both outward and homeward passages on the _____.

See § 43.4471-1(b).

Taxpayer's description of a Shuttle Vessel's operations does not meet the definition of a covered voyage because a Shuttle Vessel does not have berth or stateroom accommodations for 16 passengers and its voyages do not extend over one or more nights. See § 4472(1)(A)(i). The Shuttle Vessel does not transport passengers engaged in gambling aboard the Shuttle Vessel beyond the territorial waters of the United States, during which passengers embark or disembark in the United States. See § 4472(1)(A)(ii).

Taxpayer argues that the voyages of the Shuttle Vessels should be combined with the voyages of the _____ to constitute one integrated covered voyage because the _____ operation would not be economically feasible without the Shuttle Vessels transporting additional passengers to and from the _____. Taxpayer further argues, that there would be no reason to have the Shuttle Vessels without the _____ to which the Shuttle Vessels transport passengers.

The statutory language in § 4471 defines the term "covered voyage" as a voyage of either a commercial passenger vessel . . . or a commercial vessel transporting passengers. . . " (Emphasis added). The article "a" is defined as one. See Webster's Third New International Dictionary 1 (1993).

In United States v. Nordic Village, Inc., 503 U.S. 30, 36 (1992), the Supreme Court reiterated that it is a "settled rule that a statute must, if possible, be construed in such fashion that every word has some operative effect."

The operative effect of the word "a" is that each voyage of a single vessel must be evaluated to determine if such a voyage is a covered voyage for purposes of the tax imposed by § 4471. The statutory and regulatory schemes do not embrace an integrated approach to covered voyages. Therefore, the voyages of a Shuttle Vessel and the _____ do not constitute one integrated covered voyage and must be separately evaluated.

Accordingly, for federal excise tax purposes:

1. For purposes of §§ 4471 and 4472, the _____ will be on a "covered voyage" from its embarkation of passengers in the United States and its outward trip beyond the territorial waters of the United States until the _____ returns to a United States port where passengers disembark.

2. The \$3.00 per passenger tax imposed by § 4471(a) will apply once for each passenger who boards the _____ on a covered voyage at the time of such passenger's first embarkation or disembarkation in the United States.
3. Taxpayer, as the operator of the _____, will be liable for the tax imposed by § 4471(a).
4. For purposes of §§ 4471 and 4472, a Shuttle Vessel voyage is not a covered voyage.
5. The \$3.00 per passenger tax imposed by § 4471(a) will not apply to Shuttle Vessel passengers.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

This ruling does not express any opinion regarding the application of the Gambling Ship Act, 18 U.S.C. §§ 1081, 1082, and 1083.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

Barbara B. Franklin
By: Barbara B. Franklin
Senior Technician Reviewer

Enclosures (2):
Copy of this letter
Copy for section 6110 purposes